

IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA

CWP No.339 of 2001

Date of decision 28.5.2007

Smt.Drompati and anr.

Petitioners

Vs.

Addl.Director Consolidation
and others

Respondents

Coram:

The Hon'ble Mr.Justice Rajiv Sharma,J.

Whether approved for reporting?¹ No.

For the Petitioners: Mr. Dushyant Dadwal, Advocate.

For the Respondents : Mr.M.S.Chandel, Advocate General, with
Ms.Meenakshi Sharma, Dy.A.G., for
respondent No.1.

Mr.K.D.Sood, Advocate, for respondent No.2.

Rajiv Sharma, J.

Brief facts necessary for the adjudication of this petition are that an order dated 7.6.1987 was passed by the Consolidation Officer, Sarkaghat in which various parcels of land as detailed in the order were allotted to the parties. Feeling aggrieved by the order of the Consolidation Officer dated 7.6.1987 an appeal was preferred by late Shri Jagar Nath, predecessor in interest of the petitioners in the court of Settlement Officer. The Settlement Officer remanded the case to the Consolidation Officer, Sarkaghat for decision afresh. The Consolidation Officer disposed of the petition on 15.6.1992. Feeling aggrieved by the order dated 15.6.1992 the respondent No.2 preferred an appeal before the Settlement Officer. The appeal was dismissed by the Settlement Officer on 10.12.1993.

¹ Whether reporter of local papers are allowed to see the judgment ? No.

Respondent No.2 thereafter filed appeal before the Additional Director, Land & Consolidation on 6.4.1994. The learned Additional Director, Land Consolidation Department vide order dated 4.7.2000 set aside the orders dated 15.6.1992 and 10.12.1993 and restored the order dated 7.6.1987 passed by the Consolidation Officer. The petitioner No.1 was proceeded against ex parte on 26.5.2000 and respondent No.3 was also proceeded against ex parte on 4.7.2000.

Mr.Dushyant Dadwal, learned counsel appearing on behalf of the petitioners submitted that the order passed by the Additional Director 4.7.2000 is not sustainable in the eye of law and the earlier orders dated 15.6.1992 and 10.12.1993 may be restored. Mr.M.S.Chandel, learned Advocate General appearing on behalf of respondent No.2 has strenuously argued that the order dated 7.6.1987 passed by the Consolidation Officer was a compromise order and no appeal could be preferred by the petitioners against the same. This Court had directed on 8.11.2001 the respondent State to produce the record of case No.8/94 decided by the Additional Director, Land Consolidation Department. Accordingly the record was produced.

I have gone through the order dated 7.6.1987 passed by the Consolidation Officer, Sarkaghat. The order dated 7.6.1987 is a compromise order. I have also gone through the joint statement made on oath by the parties including petitioners' predecessor-in-interest Jagar Nath and respondent No.2 on 29.4.1987. The learned Additional Director after perusal of the record had come to just conclusion that the order dated 7.6.1987 based on the compromise arrived at between the parties before the Consolidation Officer was not appealable. The Consolidation Officer in his order dated 15.6.1992 has not considered the compromise arrived at between the parties on 29.4.1987. Similarly the Settlement Officer has over looked this vital fact while rejecting the appeal preferred by respondent No.2. This Court is of the opinion that once the order was

passed by the Consolidation Officer on 7.6.1987 on the basis of compromise arrived at between the parties; the appeal was not maintainable against the same. The learned Consolidation Officer in his order dated 7.6.1987 has marked the presence of Jagar Nath the predecessor-in-interest of the petitioners. There is neither any jurisdictional error nor procedural irregularity in the order dated 4.7.2000 passed by the learned Additional Director (Consolidation). Accordingly there is no merit in the writ petition the same is dismissed with no order as to costs.

May 28, 2007(g)

(Rajiv Sharma), J.